

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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## COLLEGIUM FUND LLC, SERIES 32,

Case No. 2:16-cv-01640-JCM-PAL

Plaintiff,

V.

MARK DANIEL SNYDER, et al.,

(Stip to Seal – ECF No. 40)

## Defendants.

## ORDER

12 This matter is before the court on the parties' Stipulated Motion to File Under Seal (ECF  
13 No. 40). This Motion is referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(A) and LR  
14 IB 1-3 of the Local Rules of Practice.

15 As a general matter, there is a strong presumption of public access to judicial records.  
16 *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006). However, public  
17 “access to judicial records is not absolute.” *Kamakana*, 447 F.3d at 1178. The Ninth Circuit has  
18 held that the strong presumption of access to judicial records “applies fully to dispositive  
19 pleadings, including motions for summary judgment and related attachments.” *Kamakana*, 447  
20 F.3d at 1179. Thus, a movant must show “compelling reasons” to seal judicial records attached to  
21 a dispositive motion. *Id.* (citing *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1136 (9th  
22 Cir. 2003)). “Generally speaking, compelling reasons exist when court records ‘might have  
23 become a vehicle for improper purposes,’ such as to gratify private spite, promote public scandal,  
24 commit libel, or release trade secrets.” *In re Roman Catholic Archbishop of Portland*, 661 F.3d  
25 417, 429 (9th Cir. 2011) (citing *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)).  
26 When applying the compelling reasons standard, “a district court must weigh relevant factors, base  
27 its decision on a compelling reason, and articulate the factual basis for its ruling, without relying  
28 on hypothesis or conjecture.” *Pintos v. Pac. Creditors Ass’n*, 605 F.3d 665, 679 (9th Cir. 2010)

1 (quoting *Hagestad v. Tragesser*, 49 F.3d 1430, 1434 (9th Cir. 1995)). “Relevant factors” include,  
2 but are not limited to, the “public interest in understanding the judicial process and whether  
3 disclosure of the material could result in improper use of the material for scandalous or libelous  
4 purposes or infringement upon trade secrets.” *Id.*; see also *EEOC v. Erection Co., Inc.*, 900 F.2d  
5 168, 170 (9th Cir. 1990).

6 Additionally, the Ninth Circuit has made clear that the sealing of entire documents is  
7 improper when any confidential information can be redacted while leaving meaningful information  
8 available to the public. See *Foltz*, 331 F.3d at 1137; *In re Roman Catholic Archbishop*, 661 F.3d  
9 at 425. To the extent that a sealing order is permitted, it must be narrowly tailored. See, e.g.,  
10 *Press-Enterprise Co. v. Superior Ct. of Cal., Riverside Cnty.*, 464 U.S. 501, 512 (1984). The  
11 Supreme Court has instructed that a sealing order should be “limited to information that was  
12 actually sensitive,” that is only the parts of the material necessary to protect the compelling interest.  
13 *Id.* Thus, even when the court’s analysis weighs in favor of protection, “a court must still consider  
14 whether redacting portions of the discovery material will nevertheless allow disclosure.” *In re*  
15 *Roman Catholic Archbishop*, 661 F.3d at 425 (citing *Foltz*, 331 F.3d at 1136–37).

16 Here, the parties have agreed to allow Plaintiff Collegium Fund LLC, Series 32  
17 (“Collegium Fund”) to file under seal its response, including exhibits, to Freddie Mac’s Motion  
18 for Summary Judgment (ECF No. 26). See Sealed Response (ECF No. 45). The unredacted  
19 Response attaches 29 exhibits, which total nearly 400 pages. The Stipulated Motion (ECF No. 40)  
20 states that Collegium Fund’s Response and related exhibits “contain or consist portions of the  
21 Master Commitment and Master Agreement between Wells Fargo and Freddie Mac” (“Master  
22 Agreement”) and these documents “contain confidential, proprietary, and commercially sensitive  
23 information related to Freddie Mac’s purchase of loans from Wells Fargo.” *Id.* at 2. However,  
24 the parties provided no justification for filing the entire Response and all of its 29 exhibits under  
25 seal. Most of the Response contains legal argument and statements of disputed and undisputed  
26 facts that do not involve the Master Agreement. The specific portions of the response and  
27 exhibit(s) related to the Master Agreement may be sealed but not all others. Collegium Fund shall  
28 file a redacted version of its Response and exhibits on the public record consistent with this Order.

1 Accordingly,

2 **IT IS ORDERED:**

- 3 1. The Stipulated Motion to File Under Seal (ECF No. 40) is **GRANTED IN PART AND**  
4 **DENIED IN PART.**
- 5 2. Plaintiff Collegium Fund shall have until **May 24, 2017**, to file a redacted version of  
6 its Response and exhibits on the public record consistent with this Order.

7 Dated this 17th day of May, 2017.

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10 PEGGY A. SEEN  
11 UNITED STATES MAGISTRATE JUDGE  
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